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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/686,811 | 10/17/2003 | Toshifumi Otsubo | 2038-301 | 8784 |
| 22429 | 7590 | 08/20/2004 | EXAMINER | |
| LOWE HAUPTMAN GILMAN AND BERNER, LLP 1700 DIAGONAL ROAD SUITE 300 /310 ALEXANDRIA, VA 22314 | | | BUI, LUAN KIM | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3728 | |

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,811

Applicant(s)

OTSUBO, TOSHIFUMI

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 4 and 5, the phrase “at least two of said rows” lacks antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (5,934,470; hereinafter Bauer'470) in view of The International Application No. WO 02/096333 to Otsubo et al. (hereinafter Otsubo'333). Bauer'470 discloses in the embodiment of Figures 1 and 3 a packaged assembly (10, 20) of disposable diapers (21) comprising most the limitations of the claims including a package formed from a flexible sheet (19) having first through sixth surfaces for containing the diapers and the diapers including first diapers each having a waist's end portion lying on a side of a first surface of the package and second diapers each having a waist's end portion lying on a side of a second surface of the package opposed to the first surface so the first and second diapers are alternately placed in close contact one with another to form a

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row and the number of the first diapers is substantially equal to the number of the second diapers. However, Bauer'470 fails to show each of the diapers being folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines. Otsubo'333 teaches a diaper comprising a waist hole and a pair of leg holes. The diaper is folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines (16) (Figures 6-9). It would have been obvious to one having ordinary skill in the art in view of Otsubo'333 to modify the diapers of Bauer'470 so each diaper is folded at both lateral portions of a crotch region's bottom along a pair of fold-guiding lines to allow the packaged assembly of Bauer'470 for holding various types of diapers having different folding configuration.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of McQueeney et al. (5,361,905; hereinafter McQueeney'905). The packaged assembly of Bauer'470 further fails to show the package contains at least two rows of diapers being placed upon each other in a vertical direction of the rows being arranged side by side. McQueeney'905 shows a package for diapers comprising at least two rows of diapers and the rows placed upon each other in a vertical direction or the rows arranged side by side (Figures 1 and 3). It would have been obvious to one having ordinary skill in the art in view of McQueeney'905 to modify the packaged assembly of Bauer'470 so the package is configured to hold at least two rows of diapers and the rows placed upon each other in a vertical direction or the rows arranged side by side to provide a larger package for holding diapers and because the selection of the specific configuration of the package such as the rows placed upon each other in a vertical direction or the rows arranged side by side would have been

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an obvious matter of design choice inasmuch as applicant's specification does not state that using these specific configuration as claimed solves any particular problem or yields any unexpected results.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
August 19, 2004

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a horizontal line underneath.

Luan K. Bui
Primary Examiner